UNITED STATES PATENT AND TRADEMARK OFFICE

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EXAMINER
SHRADER, LAWRENCE J

ART UNIT	PAPER NUMBER
2124	7

DATE MAILED: 10/09/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _15 July 2003_ .

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-20_ is/are pending in the application.

　　4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1-20_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

　　Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

　　If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

　　a)☐ All b)☐ Some * c)☐ None of:

　　　　1.☐ Certified copies of the priority documents have been received.

　　　　2.☐ Certified copies of the priority documents have been received in Application No. _____ .

　　　　3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

　　* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

　　a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _6_ .

4)☐ Interview Summary (PTO-413) Paper No(s). _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: .

DETAILED ACTION

1.   This action is in response to the amendment filed on July 15, 2003.

2.   Claims 1 – 20 remain rejected under *35 USC § 103*.

3.   Receipt of the third information disclosure statement on 7/15/2003 is acknowledged, and

it has been considered.

Specification

4.   The specification objection made in the prior Office Action regarding the use of USPTO

Form 1449 for the cited references is maintained because MPEP §609 III A1 requires that "U.S.

applications must be identified by the inventor, the eight digit application number (the two digit

series code and the six digit serial number), and the filing date." IDS paper #2 has not been

considered because it lacks requirements of MPEP §609 III A1 regarding the inventor

identification. The Examiner's initials indicated that the application listing was noted, but it

was not considered.

The objection regarding the cross-references to other applications being placed apart

from the specification is withdrawn.

Claim Rejections - 35 USC § 112

5.   The specification objection made in the prior office action are maintained for the

following reasons:

The Applicant has argued:

"In the Office Action, at lines 6-15 on page 2, the Examiner
rejects Claims 1-20 under the second paragraph of 35 U.S.C.
§112, asserting that these claims are indefinite because they
each include the word "different". In particular, the Examiner
asserts that the word "different" is a relative term, and
therefore renders Claims 1, 4, 7 and 14 indefinite. This §112
rejection is respectfully traversed, for the following reasons.
First, there is no good basis for the assertion that the word
"different" is a "relative" term. In this regard, the provisions
of MPEP §2173.05(b) discuss various terms which the PTO
considers to be "relative" terms that could potentially be
indefinite. The word "different" does not appear among the
various terms which are discussed there. The Examiner has not
offered any support whatsoever for the assertion that
"different" is a word which is routinely regarded by the PTO as
a "relative" term.
    The Examiner then goes on to assert: (1) that the word
"different" is not defined in the claims, (2) that the
specification does not provide a standard for ascertaining the
requisite degree, and (3) that one of ordinary skill in the art
would not reasonably understand the scope of the invention. The
Examiner's statement on this point uses only standard
"boilerplate" language, and does not contain a single word which
is specific to the context of the claims that appear in the
present application. In fact, the entire §112 rejection lacks a
single word of explanation as to why, in the specific context of
Claims 1, 4, 7 and 14, the word "different" might somehow
present some indefiniteness. The Examiner basically assumes that
the word "different" is automatically indefinite whenever it is
used in a claim, but that assumption is contrary to standard PTO
practice.
    Further, it should be noted that the rejection is based on
the occurrence of "different" at line 3 in each of Claims 1, 4,
7 and 14, but no objection has been raised to other occurrences
of the word "different" in the claims, for example at line 5 of
Claim 7 and line 6 of Claim 14. Consequently, it is respectfully
submitted that the Examiner recognizes that the word "different"

is not inherently indefinite. In order to establish that the
word "different" is indefinite as used in line 3 of Claims 1, 4,
7 and 14, even though it is not regarded as indefinite at other
locations, the Examiner would need to discuss the specific
context of the use of "different" in line 3 of each of Claims 1,
4, 7 and 14, as mentioned above. But the entire §112 rejection
lacks even a single word of explanation which is specific to the
context of Claims 1, 4, 7 and 14. It is therefore respectfully
submitted that the Examiner has failed to carry the burden of
establishing that indefiniteness is the result of the specific
context within which the word "different" is used in line 3 of
each of Claims 1, 4, 7 and 14.

   For the foregoing reasons, it is respectfully submitted
that there is no reasonable basis for the assertion that the
word "different" is a relative term, and thus no basis for the
assertion that Claims 1, 4, 7 and 14 are inherently indefinite
because they happen to include the word "different". It is
therefore respectfully submitted that Claims 1-20 are definite
and comply with the second paragraph of §112, and notice to that
effect is respectfully requested."

Examiner's Response:

The *35 USC § 112* rejection of claims 7 and 14 is withdrawn because the claim goes on

to explain that the definitions are functionally different, however the rejection of claims 1 and 4

remain for the following reasons:

Firstly, MPEP §2173.05 (b) does not portray the various terms considered "relative" as

an exhaustive list. MPEP 2173.05 (a) states that:

"The meaning of every term used in a claim should be apparent from the prior art or from
the specification and drawings at the time the application is filed. Applicants need not confine
themselves to the terminology used in the prior art, but are required to make clear and precise the
terms that are used to define the invention whereby the metes and bounds of the claimed
invention can be ascertained. During patent examination, the pending claims must be given the
broadest reasonable interpretation consistent with the specification."

The term "different" as used in claims 1, and 4 is not precise because it leads one to ask a

question: "different from what?" or "different in what manner, quality, or characteristic?" For

example, the claims may refer to (1) function definitions that are different from other

predetermined function definitions, or (2) various definition qualities or characteristics that are

different among a plurality of predetermined function definitions in the same set, or (3) a

separate set having predetermined function definitions that are different from another set of

definitions. The context of the claim does not help resolve the questions.

Claim Rejections - 35 USC § 102

6.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7.   Claims 1 – 6 are rejected under 35 U.S.C. 102(e) as being anticipated by Fowlow et al.,

U.S. Patent 6,083,277.

In regard to claim 1, Fowlow discloses a means of providing a set of distinct

predetermined function definitions comprising:

"A plurality..." Fowlow discloses a plurality of function portions comprised of

components having methods performing specific predetermined functions, having an

input port and an output port (by which information is obtained and sent) related by the

corresponding function definition (Abstract; column 2, lines 1 – 30; e.g., Figure 3). An

interface defines a protocol of behavior (predetermined functions) with a set of constant

and method definitions contained within an interface that can be implemented by any

class anywhere in the class hierarchy. When a class implements an interface, the class

agrees to implement all the methods (a function portion corresponding to a function

definition) defined in the interface.

"A further portion..." Fowlow discloses that the interface is retrieved to determine the

both the destination portion (plugs) and the source portion (sockets), as well as the input and

output ports through which the data is supplied and produced (Abstract; column 2, lines 1 – 60;

e.g., Figure 3).

"Binding information..." Information is processed and an input is associated with a

respective output wherein Fowlow discloses that the interface is retrieved to determine the both

the destination portion (plugs) and the source portion (sockets), as well as the input and output

ports through which the data is supplied and produced (Abstract; column 2, lines 1 – 60; e.g.,

Figures 4 and 5).

"...said function definitions identifies a separate application program...wherein

execution of said one function portion causes execution of said one function portion in a

manner which affects data present in said one function portion." Fowlow discloses

connections links between separate components causing storing and execution of a definition

(described in the interface of the object component; Abstract, e.g., Figures 4 and 5). Each

component is an object, defined as a function or operation encoded in software, within the

object accessing the internal state of the object. In this sense Fowlow discloses a separate

application wherein the method of the object constitutes a command to another application

(object) in a manner that affects the data (e.g., Figure 3; column 6, line 54 to column 7, line 10).

In regard to claim 2, incorporating the rejection of claim 1:

"...wherein said data in said one function portion is image data, and including the step of

selecting as said application program as an image processing program." An object, as

disclosed by Fowlow (e.g., Figure 3), inherently represents a real world entity, therefore, an

object that representing an image would inherently be an image-processing program.

In regard to claim 3, incorporating the rejection of claim 1:

"...including the steps of concurrently executing said project definition and an instance of

said application program." Fowlow discloses objects that act as project definitions having an

input port and an output port (by which information is obtained and sent) related by the

corresponding function definition (Abstract; column 2, lines 1 – 30; e.g., Figure 3). The method

inherently runs as an application executing the method of the object.

In regard to claims 4 – 6 (a computer-readable medium), they are rejected for the same

reasons put forth in the rejection of claims 1 – 3 (a corresponding method).

In regard to claim 7:

"Modifying said set to include at least one custom function which is functionally different

from each of said predetermined function definitions." Fowlow discloses a method for an

application builder to design a custom project definition by determining object interfaces and

connection them accordingly to create predetermined function definitions (column 6, lines 28 –

50; e.g., Figure 4)

"A plurality..." Fowlow discloses a plurality of function portions comprised of

components having methods performing specific predetermined functions, having an

input port and an output port (by which information is obtained and sent) related by the

corresponding function definition (Abstract; column 2, lines 1 – 30; e.g., Figure 3). An

interface defines a protocol of behavior (predetermined functions) with a set of constant

and method definitions contained within an interface that can be implemented by any

class anywhere in the class hierarchy. When a class implements an interface, the class

agrees to implement all the methods (a function portion corresponding to a function

definition) defined in the interface.

"A further portion..." Fowlow discloses that the interface is retrieved to determine the

both the destination portion (plugs) and the source portion (sockets), as well as the input and

output ports through which the data is supplied and produced (Abstract; column 2, lines 1 – 60;

e.g., Figure 3).

"Binding information..." Information is processed and an input is associated with a

respective output wherein Fowlow discloses that the interface is retrieved to determine the both

the destination portion (plugs) and the source portion (sockets), as well as the input and output

ports through which the data is supplied and produced (Abstract; column 2, lines 1 – 60; e.g.,

Figures 4 and 5).

Claim Rejections - 35 USC § 103

8.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

9.   Claims 8 – 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fowlow et

al., U.S. Patent 6,083,277 in view of Davis et al. U.S. Patent 6,002,876 (hereinafter referred to

as Davis).

In regard to claim 8, incorporating the rejection of claim 7 above:

"...wherein said modifying step includes the step of creating said custom function

definition by modifying one of said predetermined function definitions. " Fowlow discloses a

plurality of functions with related inputs and outputs, but does not teach the modification of

functions. Davis teaches modification of a predetermined function (column 3, lines 17 – 28) in

order to allow a program to operate in a number of instruction sets. Therefore, it would have

been obvious to one skilled in the art at the time the invention was made to combine the method

of defining a plurality of functions with related inputs and outputs as taught by Fowlow with the

teaching of Davis by allowing modification of in instruction set with new functions, or updating

existing functions, thus extending the utility of the project definition by providing an efficient

means of upgrading the functions as taught by Davis.

In regard to claim 9, incorporating the rejection of claim 8.

"...wherein said modifying step includes the step of replacing in said set said one

predetermined function definition with said custom function definition. " Fowlow discloses a

plurality of functions with related inputs and outputs, but does not teach the modification of functions. Davis teaches modification of a predetermined function with a user modified function (column 3, lines 17 – 28) allowing a program to operate in a number of instruction sets. Therefore, it would have been obvious to one skilled in the art at the time the invention was made to combine the method of defining a plurality of functions with related inputs and outputs as taught by Fowlow with the teaching of Davis by allowing modification of in instruction set with new functions, or updating existing functions, thus extending the utility of the project definition by providing an efficient means of upgrading the functions as taught by Davis (column 3, lines 17 – 28).

In regard to claim 10, incorporating the rejection of claim 8.

"...wherein said modifying step includes the step of including in said set each of said custom function definition and said one predetermined function definition." Fowlow discloses a plurality of functions with related inputs and outputs, but does not teach the modification of functions. Davis teaches modification or inclusion of a custom function (s substitute fumction) within a set of predefined functions (column 4, lines 41 – 43) allowing a program to operate in a number of instruction sets with separate function compilations. Therefore, it would have been obvious to one skilled in the art at the time the invention was made to combine the method of defining a plurality of functions with related inputs and outputs as taught by Fowlow with the teaching of Davis by allowing inclusion of a custom function in an instruction set, thus extending the utility of the project definition by providing an efficient means of upgrading or modifying the function set as taught by Davis (column 3, lines 17 – 28).

In regard to claim 11, incorporating the rejection of claim 8.

> *"Modifying source code..."*

> *"Compiling source code..."*

> *"Including said object code in said set."*

Fowlow discloses a plurality of functions with related inputs and outputs, but does not teach the modification of functions, compiling the modified code, and including the object code into the set of functions. Davis further teaches modification, compilation and inclusion of resulting object code into the function set (column 4, lines 15 – 50) in a development environment (column 5, lines 1 – 3). Therefore, it would have been obvious to one skilled in the art at the time the invention was made to combine the method of defining a plurality of functions with related inputs and outputs as taught by Fowlow with the teaching of Davis by allowing modification of the function set with additional functions, compiling the modified code and including the resultant object code in the function set to provide an efficient way of recompiling individual functions without recompiling the entire routine as taught by Davis (column 4, lines 40 – 50).

10.   Claims 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fowlow et al., U.S. Patent 6,083,277 in view of Davis et al. U.S. Patent 6,002,876 as applied to claim to claim 11, above, and further in view of Sleep et al., U.S. Patent 6,317,648 (hereinafter referred to as Sleep).

In regard to claims 12 and 13:

Fowlow discloses a plurality of functions with related inputs and outputs, but does not teach the use of an off-line development environment (claim 12) that includes Visual Basic

(claim 13). Davis teaches a development environment, but not an off-line environment with

Visual Basic. Sleep teaches an off-line development environment using Visual Basic (column

32, lines 38 – 60). Therefore, it would have been obvious to one skilled in the art at the time the

invention was made to combine the method of defining a plurality of functions with related

inputs and outputs as taught by Fowlow with the teaching of Davis by allowing modification of

the function set and incorporating additional functions, compiling the modified code and

including the resultant object code in the function set, and further modified by the teaching of

Sleep by providing on off-line development environment using Visual Basic, which would

provide a well known tool to modify the functions in an environment that stores the various

configurations after creation or modification for future use as taught by Sleep (column 32, lines

51 – 52).

In reference to claims 14 – 20 (computer-readable medium), they are rejected for the

same reasons put forth in the rejection of claims 7 – 13 (method) respectively.

Response to Arguments

11.   Applicant's arguments filed July 15, 2003 have been fully considered but they are not

persuasive:

    The Applicant has argued:

    (A) "The Office Action rejected Claims 1 and 11 under the
judicially-created doctrine of obviousness-type double patenting, based on
either Claim 1 or Claim 4 of co-pending U.S. Serial No. 09/657,661, when
taken in view of Dougherty U.S. Patent No. 6,370,575. This ground of
rejection is respectfully traversed, for the following reasons.

First, and as recognized in the Office Action, the double patenting
rejection is a provisional rejection, because it involves two applications
which are both still pending. The attention of the Examiner is respectfully
directed to the provisions of MPEP §804(1)(B), which relate to this type of
situation, and which essentially state that, when one of the two applications
reaches a point where the only remaining rejection is a provisional double
patenting rejection, the Examiner should withdraw the provisional double
patenting rejection in the first application, and maintain a nonprovisional
double patenting rejection in the other application. Consequently, if the
present application reaches a point where the provisional double patenting
rejection is the only remaining objection, the Examiner should withdraw it.

Turning to the basis for the double patenting rejection, the Examiner
notes that Claim 1 of the present application and Claim 1 of the '661
application have some similar limitations, but concedes that Claim 1 of the
'661 application does not include a limitation comparable to the recitation
in Applicants' Claim 1 of "transmitting through a communications link from a
first end thereof to a second end thereof a communication from a user which
causes one of storing and execution of the project definition at said second
end of the communications link". The Examiner asserts that, when Claim 1 of
the '661 application is considered in view of the Dougherty patent, the
subject matter of this limitation would be obvious.

In this regard, the Examiner asserts that Dougherty teaches the
deployment and execution of a project definition file over a communications
link (in the abstract and at lines 13-19 of Column 10). Applicants
respectfully disagree. The abstract of Dougherty says nothing at all about a
project definition file, much less deployment or execution thereof. Lines
13-19 of Column 10 mention a project definition file, but merely state that,
for each new project within an organization, a project definition file is
created. There is nothing in these portions of Dougherty to support the
Examiner's assertion that Dougherty teaches a project definition file which
is transmitted or deployed through a communications link. At best, Dougherty
appears to teach that a communication sent through a communications link
causes a new project definition tile to be created. This is different from
what is recited in Applicants' Claim 1.

In particular, Applicants' Claim 1 requires that a project definition
exist before a specified communication is sent through a communications link,
and specifies that the communication causes the pre-existing project
definition to be either stored or executed. It is thus respectfully submitted
that the indicated portions of Dougherty do not teach the subject matter of
the "transmitting" limitation which appears in Applicants' Claim 1.
Consequently, even if Claim 1 of the '661 application is considered in view
of the indicated portions of Dougherty, the result would not be the subject
matter recited in Applicants' Claim 1.

A further consideration is that, in any obviousness analysis which
involves a combination of teachings from two documents, the Examiner must not
only propose how the teachings from the documents would be combined, but must
also provide evidence that the prior art would motivate a person to make the
proposed combination. (See MPEP §2143.01). In the present situation, the
Examiner fails to do so. In particular, the Examiner merely makes the
conclusory statement that "it would have been obvious to one skilled in the
art to combine the recitation of the '661 application with the teaching of
Dougherty thus enhancing the '661 application so the definition files might
be loaded and executed remotely through a communications link". It is not
clear that this sentence actually states a motivation for making the proposed

combination, but even assuming that it does, the Office Action does not identify any specific portion of the prior art which is the origin for this motivation. Instead, the origin for motivation here is apparently a personal belief of the Examiner, rather than anything found in the prior art. Consequently, in the absence of a clear explanation from the Examiner as to why there would be motivation which originates in the prior art, the obviousness analysis is incomplete and therefore defective.

Applicants also wish to point out that an obviousness analysis in the context of a double patenting rejection is not the same as an obviousness analysis for purposes of 35 U.S.C. §103. As one aspect of this, the ultimate issue in a double patenting rejection is whether two claims are both directed to essentially the same subject matter. Although Claim 1 of the present application and Claim 1 of the '661 application each include some limitations that are similar, they also each include some other limitations that are radically different. For example, and as noted above, Claim 1 of the present application includes a recitation of "transmitting through a communications link from a first end thereof to a second end thereof a communication from a user which causes one of storing and execution of the project definition at said second end of the communication link". In contrast, Claim 1 of the '661 application recites: "wherein one of said function definitions identifies a separate application program, wherein one of said function portions which corresponds to said one function definition identifies a command for said application program, and wherein execution of said one function portion causes execution of said command by said application program in a manner which affects data present in said one function portion". When these radically different limitations are taken into account, it is respectfully submitted that Claim 1 of the present application and Claim 1 of the '661 application are not even remotely directed to the same basic subject matter, but instead are each directed to significantly different subject matter.

For the reasons set forth above, it is respectfully submitted that Claim 1 of the present application and Claim 1 of the '661 application are directed to respective different inventions, and that this remains true even if Claim 1 of the '661 application is considered in view of the Dougherty patent. It is therefore respectfully submitted that the double patenting rejection should be withdrawn with respect to Claim 1 of the present application.

Turning to Claim 11 of the present application, the double patenting rejection is based on Claim 4 of the '661 application when considered in view of the Dougherty patent, based on essentially the same rationale discussed above in association with Applicants' Claim 1. Therefore, and for reasons similar to those discussed above in association with Applicants' Claim 1, it is respectfully submitted that Applicants' Claim 11 is directed to an invention which is different from the invention recited in Claim 4 of the '661 application, even when Claim 4 of the '661 application is considered in view of Dougherty. It is therefore respectfully submitted that the double patenting rejection of Applicants' Claim 11 should be withdrawn."

Examiner's Response:

The double patenting rejection is maintained because both applications read on each other

and only one invention of the same type is allowed. Additionally, allowability is not an issue at

this point, and the rejection involves two applications that are both still pending.

(B) "Independent Claim 1 stands rejected under 35 U.S.C. §103 as obvious
in view of a combination of teachings from Mukherjee U.S. Patent No.
6,226,322, Koppolu U.S. Patent No. 6,446,135 and the Dougherty patent. This
ground of rejection is respectfully traversed, for the following reasons.
     The primary reference in this rejection is the Mukherjee patent. Figure
1 of Mukherjee discloses hardware circuitry which includes three modems 8 and
15, the modem 8 being coupled to each of the modems 15 by a respective
twisted wire pair (TWP). Generally speaking, the Examiner asserts that the
modem circuitry shown in FIGURE 1 of Mukherjee corresponds to the "project
definition" recited in Applicants' Claim 1, including a plurality of function
portions, a further portion and binding information. However, Claim 1
specifies that a communication received through a communications link "causes
one of storing and execution of the project definition" which is recited in
Claim 1. The hardware circuitry shown in Figure 1 of Mukherjee is not capable
of being "stored" or "executed", and thus is not even remotely comparable to
the "project definition" which is recited in Applicants' Claim 1. Therefore,
since the §103 rejection relies on Mukherjee for the disclosure of certain
subject matter, and since Mukherjee does not actually disclose this subject
matter, the §103 rejection necessarily fails, regardless of what is disclosed
in Koppolu and Dougherty. Nevertheless, Koppolu and Dougherty will be briefly
discussed for purposes of completeness.
     The Office Action statesthat "Mukherjee does not teach identification
of a separate application program and a command identified with one of the
functions". The Office Action then goes on to assert that Koppolu does
disclose this feature. Applicants respectfully submit that this is all
irrelevant, because Claim 1 of the present application does not actually
include a limitation directed to "a separate application program and a
command identified with one of the functions". It is noted that the
co-pending '661 application, which was discussed above in association with
the double patenting rejection, includes independent claims with a limitation
that refers to a separate application program and a command identified with
one of the functions. But Claim 1 of the present application does not include
any such limitation, and the indicated portion of Koppolu is thus believed to
be entirely irrelevant to Claim 1 of the present application.
     The Office Action goes on to assert that: "Neither Mukherjee nor
Koppolu teaches the transmission of a project definition from one end of a
communications link to another", and then asserts that Dougherty teaches this
feature. Once again, however, the Examiner is discussing a feature which is
not recited in Applicants' Claim 1. In particular, Applicants' Claim 1 never
states that the recited project definition is necessarily transmitted through
a communications link. Instead, Claim 1 recites that a communication is sent

through a communications link, and causes one of storing or execution of a
project definition. As discussed above in association with the double
patenting rejection, the indicated portions of Dougherty do not disclose this
feature. Consequently, this feature would not be obvious, even when the
teachings of Dougherty are taken into account.

Still another consideration is that, as discussed earlier, a proper
obviousness analysis under §103 must include not only a proposed combination
of Mukherjee, Koppolu and Dougherty, but must also (1) establish motivation
for making the proposed combination, and (2) establish that the motivation
has its origin in the prior art. In the Office Action, the §103 rejection of
Claim 1 merely offers a conclusory statement that a person of ordinary skill
would make the proposed combination. The Office Action does not establish any
solid motivation, much less that there is motivation which has its origins in
the prior art.

For the reasons discussed above, it is respectfully submitted that
there are a number of flaws in the §103 rejection of Claim 1, and that Claim
1 is not rendered obvious under §103 by Mukherjee, Koppolu and Dougherty.
Claim 1 is therefore believed to be allowable, and notice to that effect is
respectfully requested."

Examiner's Response:

The Applicant's argument is moot in view of the new grounds of rejection put forth

above in this action.

Conclusion

12.   The prior art made of record and not relied upon is considered pertinent to applicant's

disclosure:

U.S. Patent 6,493,870 to Madany et al., regarding packaging a program for remote

execution.

13.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Lawrence Shrader whose telephone number is (703) 305-8046.

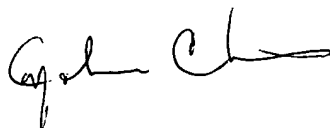The examiner can normally be reached on M-F 08:00-16:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Kakali Chaki can be reached on (703) 305-9662. The fax phone number for the

organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding

should be directed to the receptionist whose telephone number is (703) 305-3900.

Lawrence Shrader
Examiner
Art Unit 2124

September 15, 2003

JOHN CHAVIS
PATENT EXAMINER
ART UNIT 2124